IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 24137 of 2007(W)

PETITIONER:

P.K.RAMLATH, W/O. P.A.MOHAMMED ALI,
FEB JAS MANZIL, MANNOOR, CALICUT.

BY ADV. SRI.A.V.M.SALAHUDIN.

RESPONDENTS:
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1. **ASSISTANT COMMISSIONER OF POLICE (SOUTH),**
   CITY TRAFFIC, KOZHIKODE.

2. **CIRCLE INSPECTOR OF POLICE,**
   KASABA POLICE STATION, KOZHIKODE.

3. **SUB INSPECTOR OF POLICE,**
   KASABA POLICE STATION, KOZHIKODE.

4. **SHRIRAM TRANSPORT FINANCE COMPANY LTD.,**
   SREEPADAM BUILDING, CHEVAYOOR, CALICUT.

5. **GITHEESH P.,**
   ASSISTANT BRANCH MANAGER, SEETHARAM TRANSPORT FINANCE COMPANY LTD., 5/1806, IIND FLOOR, CHEROOTTY ROAD, CALICUT.

BY GOVT. PLEADER SRI. P.A. SALIM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &
HARUN-UL-RASHID, JJ.

W.P.(C) No. 24137 of 2007-W

Dated 8th August, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is the registered owner of the stage carriage KL-11/R 4886, operating on the route Kozhikode – Parappanangadi. It is covered by a regular permit. She availed a loan from respondents 4 and 5. She submits, the instalments are being paid regularly. But, without any justification and on the allegation that there is default, the said respondents are trying to seize the vehicle by force. The petitioner submits, the said action of respondents 4 and 5 is illegal and unjustified. If the vehicle is seized, the same will result in default of a public service vehicle, causing inconvenience to the travelling public also. Therefore, the petitioner has preferred Ext.P2 representation before the 1st respondent, claiming police protection for running the vehicle and also for the lives of the employees.

2. Normally, in all loan agreements there will be a clause enabling the financier to seize the vehicle on default. The petitioner

does not have a case that there is no such clause in the loan agreement. If respondents 4 and 5 are wrongfully seizing the vehicle, the petitioner has to move the competent civil court and seek appropriate relief against the same. The police cannot be conferred jurisdiction to adjudicate this dispute and render protection to the petitioner, after entering a finding that the seizure is illegal. This Court exercises jurisdiction when the police fails to discharge its duty. In this case the petitioner has failed to state before us what is the duty of the police involved in the civil dispute between her and the financiers. In view of the above position, the writ petition fails. Accordingly, it is dismissed without prejudice to the contentions of the petitioner against respondents 4 and 5. She may work out her remedy before the competent civil court.

K. BALAKRISHNAN NAIR,JUDGE

HARUN-UL-RASHID,JUDGE.

nm.